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EXAMINER

BARQADLE, YASIN M

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| ART UNIT | PAPER NUMBER |
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2153

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,057

Applicant(s)

ELLIOTT, BRIG BARNUM

Examiner

Yasin M. Barqadle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-13, 16-19 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-13, 16-19 and 21-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

The amendment filed on October 17, 2005 has been fully considered but are moot not deemed persuasive.

Claims 1-4,7-14, 15-19 and 21-26 are presented for examination.

Response to Arguments

In page 11, first paragraph, Applicant argues, "Gupta fails to teach or suggest that a play list associated with a first user can be modified by a second user remote from the first user, as recited by amended independent claim 1." Examiner notes that the features upon which applicant relies (i.e., see above) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that "Gupta disclose that the play list can be stored by its creator and retrieved by other user (col. 18, lines 13-21). However, the cited passage, in particular, and Gupta in general, fails to teach or suggest that the play list, once received, may be modified by other users." Examiner contends that user (creator) can modify play list as admitted by Applicant (see last paragraph of page 11 of the remarks) and col. 17, lines 30-35 (Gupta). Therefore, the claim needs modifying a play list by a user before saving it. Other users (instructors, teachers, students, trainers, viewers etc see the modified information (see fig. 9-11).

Applicant also argues "Gupta fails to teach or suggest modifying the play list associated with the user to include a reference to the remote network node content." (pages 12 and 13). Examiner

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notes the Gupta teaches annotation identifier, media content identifiers and content identifiers as shown in fig. 4 and 13. Gupta further teaches, “uniform resource locators (URLs) are used to identify the different multimedia streams. Each of the multimedia streams is identified by a different URL having a common prefix. This prefix is then used to identify all of the multimedia streams and their corresponding annotations.” (Col. 2, lines 42-47).

Applicant also argues that “Pezzillo fails to teach or suggest modifying a remote network node sending remote network node content and user information for modifying the play list associated with the user to include a reference to the remote network node content as recited in claim 24.”

Pages 13. Examiner notes that “Pezzillo shows that **play lists can be modified to be targeted at specific demographics: “The Play List tool in Station Manager allows multiple media files to be aggregated into single programs to create unique and targeted programs for insertion into a broadcast schedule.”** (Pezzillo, col. 1, line 66 – col. 2, line 2)

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, line 6 recites “a remote node that is independent of a user” It is not clear what independent of a user means in this context. It could be a remote node that is independent of any user (first or second user) or a remote node that is not related to any user.

Claim Rejections - 35 INC § 102

The following is a **quotation** of the **appropriate** paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention *by* the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims I, 2, 7-10, 15-19, and 21-23 are rejected under 35 U.S.C. 102(e) as being **anticipated** by Gupta et al. (U.S. Patent Number **6,484,156**, hereinafter "Gupta"). Gupta discloses accessing annotations across multiple target media streams. Gupta shows,

In referring to claim 1,

- **Providing** remote network node interface instructions for submitting remote network node content; transmitting the remote network node interface instructions to a remote network node that is independent of a user (fig. 11 and col. 18, lines 13-37)-; receiving a request from the remote network node, via the transmitted interface instructions to modify a play list, the request including remote network node content information of a user, the play list being associated with the user identified by the **identification information**:

*"Additionally, according to one embodiment the collection of media segments identified by the play list can be stored as an additional media stream by selecting "save play list" button 414 of FIG. 11. By saving the collection of media segments as a single media stream, the collection can be retrieved by the user (or other users) at a later time without **having** to go **through another querying process**. Furthermore, the collection of segments, stored as a media stream, can itself be annotated."* (Gupta, col. 18, lines 14-21)

- Modifying the play list associated with the user identified in the information to include a reference to the remote network content, the play list identifying content for streaming delivery to a network receiver associated with the identified user:

Gupta, Fig. 11 shows the play list can be modified 410

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- Causing streaming of the remote network node content to the network receiver associated with the identified user as part of the content for streaming delivery based on the modified play list

*"Transfer of the **corresponding** media segments (and/or the annotations) to client 15 is initiated when a "start" button 412 is selected." (Gupta, col. 17, lines 19-21)*

In referring to claim 2,

The remote network node content comprises at least one of audio data and video data: *"For audio content, for example, a dynamically changing frequency wave that represents an audio signal is displayed in media screen 456."* (Gupta, col. 18, lines 50-53)

In referring to claim 7,

The **play** list identifies generic, shared content in **addition** to the remote **network** node content: Gupta, Fig. 11 shows a list of generic shared content

In referring to claims 8 and 21,

- Determining whether the remote network **node** is **authorized** by the user to submit content
"An annotation server uses a hierarchical annotation storage structure to maintain a correspondence between the annotations and a hierarchically higher group identifier. Thus, annotations corresponding to the different multimedia streams can easily be accessed concurrently by using the group identifier." (Gupta, col. 2, lines 35-40)

In referring to claims 9 and 22,

- Receiving play scheduling information for the content based on the interface instructions; modifying the play list based on the received play scheduling information:

"... By saving the collection of media segments as a single media stream, the collection can be retrieved by the user (or other users) at a later time without having to go through another querying process. Furthermore, the collection of segments, stored as a media stream, can itself be annotated." (Gupta, col. 18, lines 14-21); when a user logs on he/she can retrieve a **play** list, play lists **contain** **play** scheduling information

In referring to claim 10,

- Receiving play scheduling information comprises receiving a number of times to stream the

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remote network node content:

The **number** of times an **annotation** appears on the **play** list is the number of times said annotation will be streamed

In *referring* to claims 15, 18, and 23,

- Play lists associated with different respective users, the play lists identifying content for streaming delivery to network receivers associated with the respective users: Gupta, Fig. 11 shows that each annotation has a user associated with it 406
- Instructions for causing a processor to receive a request from a remote network node to modify at least one play list of the play lists, the request including received content and identification of one user of the different respective users, the one play list being associated with the one user, the remote network node being independent of the one user (the creator/modifier of the play list is independent user other than the viewer of the annotation. See fig. 11, different users 7, 8,9 and 13-15)
Gupta, col. 18, lines 14-21 (see full quote above)
- Instructions for causing a processor to modify the one play list associated with the one user to include a reference to the received content:
Gupta, Fig. 11 shows the play list can be modified 410

In referring to claims 16 and 19,

A stream generator for streaming content to the one user based on the play list associated with one user.

Gupta Fig. 3 shows a streaming media server 11, a stream generator is inherent in a system that generates a stream

In referring to claim 17,

- Causing a processor to transmit interface instructions to the remote network node, the interface instructions for receiving identification of *content* designated by a content **submitter** and **transmitting the identification to the network server:**

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Gupta, col. 18, lines 14-21 (see full quote above)

Claim Rejections - 35 MC § 103

The following is a **quotation** of 35 U.S.C. 103(a) which forms the basis for all **obviousness** rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being **unpatentable over Gupta in view of Bowman-Amuah** (U.S. Patent Number 6,606,660, hereinafter "Bowman-Amuah").

In referring to claim 2, although Gupta shows substantial features of the claimed invention, Gupta does not show the content comprises video data. Nonetheless this feature is well known **in the art and would have been an obvious modification to the system disclosed by Gupta** as evidenced by **Bowman-Amuah**.

In analogous art, **Bowman-Amuah** discloses stream-based communication in a communication services patterns environment. Bowman-Amuah shows:

* Causing streaming of the content to a network receiver associated with the identified user:

"FIG. 20 depicts Streaming, in which a real-time data stream is transferred" (Bowman-Amuah, col. 3, lines 18-19)

• The content comprises at least one of audio data and video data:

"Audio/Video services allow nodes to interact with multimedia data streams. These services may be implemented as audio-only, video-only, or combined audio/video" (Bowman-Amuah, col. 62, lines 7-9)

Given these teachings, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system of Gupta so as to allow the system to provide video data, such as taught by Bowman-Amuah, in order to entice more users to use the system by providing more robust content.

In referring to claims 3 and 4, Gupta in view of Bowman-Amuah shows,

- **The audio data comprises a voice mail message:**

*"... an Internet telephony product can accept voice input into a workstation, translate it into an IP data stream, and route it **through** the Internet to a **destination workstation**, where the data is translated back into audio. Desktop Voice Mail various products **enable users 'to manage voice mail messages using a desktop computer.'**" (Bowman-Amuah, col. 60, lines 22-29)*

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta in view of Pezzillo et al. (U.S. Patent Number 6,434,621, hereinafter "Pezzillo").

In referring to claim 11, *although* Gupta shows substantial features of 'the claimed invention, Gupta does not show receiving play scheduling information comprises receiving a specified time to stream the remote network node content. Nonetheless this feature is well known in the art and would have been an obvious modification to the system disclosed by Gupta as evidenced by Pezzillo.

In analogous art, Pezzillo discloses an apparatus and method of using the same for Internet and intranet broadcast channel creation and management. Pezzillo shows receiving play scheduling information comprises receiving a specified time to stream the remote network node content: *"A further aspect of the invention is to utilize time barriers to override a webcast channel's program schedule to force program files to run at particular times."* (Pezzillo, col. 3, lines 24-26)

Given these teachings, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system of Gupta so as to include a time in the schedule, such as taught by Pezzillo, in order to provide live broadcasts.

In referring to claims 12 and 13,

- Receiving play **scheduling** information comprises receiving a priority for streaming the content; based on the received priority of the streaming the remote network node content, terminating streaming of currently streaming content and initiating streaming of the remote network node content
*"A still further aspect of **the invention** is to **utilize live** barriers to override a webcast **channel's** program schedule to force a live events to broadcast at a particular times."* (Pezzillo, col. 3, lines 27-29)

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Claims 24-26 are rejected under 35 U.S.C. 103(a) as **being unpatentable over** Pezzillo et al. (U.S. Patent Number 6,434,621, hereinafter "Pezzillo"). Pezzillo discloses an apparatus and method of using the same for Internet and intranet broadcast channel creation and management.

In referring to claim 24, Pezzillo shows substantial features of the claimed invention, including:

- Receive input from the remote network node including remote network node content and user information for modifying a play list associated with the user (fig. 2 and figs 3-4) receive input from the remote network node identifying the user to receive streaming delivery of the remote network node content, the user being a network node other than the remote network (col. 1, line 66 – col. 2, line 2 and **col. 12, lines 43-48**); form a request at the remote network node to modify a play list to include the identified content; transmitting the request, the input identifying content to a network server.

*"The user interface to the system is a standard Web browser, such as Netscape Navigator or Microsoft® Internet Explorer. The current system will run **under the Windows NT™ or UNIX®/Linux operating systems**. The **listener** accesses the **stations** from a **computer utilizing a standard Web browser and loaded with player software that can handle the streaming media formats**. "* (Pezzillo, col. 3, line 67 – col. 4, line 6)

"Referring now to FIG. 12, the program to generate the graphical user interface that displays the program schedule as depicted in FIG. 3 is called in step 1200." (Pezzillo, col. 17, lines 53-56)

However, Pezzillo does not explicitly show that a specific user is identified while modifying the play list. Nonetheless this feature is well known in the art and would have been an obvious modification to the system disclosed by Pezzillo.

Pezzillo shows that **play lists can be modified to be targeted at specific demographics**: *"The Play List tool in Station Manager allows multiple media files to be aggregated into single programs to create unique and targeted programs for insertion into a broadcast schedule."* (Pezzillo, col. 1, line 66 – col. 2, line 2)

Given these teachings, a person of ordinary skill in the art would have readily recognized the **desirability** and advantages of modifying the system of Pezzillo so as to allow for specifying one or more users for a specific play list, in order to provide targeted advertisements and programs.

In referring to claim 25,

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- Causing a processor to receive input from the remote network **node identifying play** scheduling information for the identified content.

"7f step 1312 determines that there are no more shows in the list of shows, then in step 1314 the graphic user interface is updated to display the list of compliant shows. Control then returns to the add an entry program, where the user can now select a compliant show from the list of compliant shows to add to the program schedule."
(Pezzillo, col. 18, **lines 44-49**)

In referring to claim 26,

- A graphical interface defined **by markup language instructions**:

"Selecting HTML tools button 608 gives the user access to a HTML module for synchronizing HTML with the audio. Selecting play lists button 610 gives the user access to the play list system, which gives the contents of the show now playing, and manages the music library and integrates compliance checking." (Pezzillo, col. 12, lines 43-48)

Conclusion

ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR system. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YB

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ABDULLAH SALAD
PRIMARY EXAMINER